THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.22909 OF 2005

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ORDER:

This Writ Petition is filed seeking a Writ of Certiorari calling for records relating to Crime No.174/05 of Ghatkesar Police Station, Cyberabad District and to quash the same as being arbitrary and illegal.

Petitioners claim to be the joint owners of the land to an extent of Ac.147.00 situated in Sy.Nos.739 to 749 of village Korremula, Ghatkesar Mandal, Ranga Reddy District. It is stated that they have jointly sold an extent of Ac.64.36 guntas situated in Sy.Nos.743 to 747 to one K. Pratap Reddy and his General Power of Attorney Holders – N. Prabhakar Reddy and Sundara Murthy during the years 1986-87 under various registered sale deeds, and possession was delivered to them. That apart, an extent of Ac.7.20 gts. in Sy.No.740 was taken over by the Government under the provisions of the Land Ceiling Regulation Act, 1976. Thereafter, during the years 1995 to 2000, petitioners also sold different extents in Sy.No.739 and 740, wherein purchasers have constructed housing colonies. While so, it is found that K. Pratap Reddy, who purchased land from the petitioners situated in Sy.Nos.743 to 747, attempted to occupy the land in Sy.Nos.739 to 742 under the guise of the sale in their favour in respect of the land in the adjacent Survey Number. In the circumstances, petitioners filed O.S.No.64 of 2004 on the file of the Court of Principal District Judge, Ranga Reddy district seeking a declaration of their title to the land and for consequential relief of injunction. The said suit is still pending. While so, at the instance of K. Pratap Reddy, some land grabbers on the basis of some invalid documents with regard to house plots in Sy.Nos.743 to 747, lodged a complaint before 1st respondent alleging that the petitioners made double registration in respect of the plots in question in favour of various purchasers. Basing on the said complaint, 1st respondent registered Crime No.174/05 dated 29.09.2005 for the offence punishable under Section 420, 447 and 472 of the Indian Penal Code.

Aggrieved by the said action, this Writ Petition is filed seeking to quash the

proceedings in Crime No.174/2005 contending, inter alia, that the dispute is purely of civil nature and the same is subject matter of O.S.No.64 of 2004 pending on the file of the Court of Principal District Judge, Ranga Reddy, and therefore, proceedings initiated against the petitioners are arbitrary and illegal.

On behalf of respondents 1 to 3, a counter-affidavit has been field by the Inspector of Police, Ghatkesar Police Station stating that on 29.9.2005 Ekasheela Nagar Lay out plot owners of village, represented by its President Srinivas Reddy, lodged a complaint alleging that 149 acres of land falling in Sy.Nos.739 to 749 was owned by petitioners herein and their agreement holder K. Pratap Reddy, through his General Power of Attorney holder Nandyala Prabbhakar Reddy, Koda Hanumantha Rao and P. Sunder Rama Murthy, having made the land into 2,100 plots, sold to Government employees of 22 organizations through registration. In spite of the same, petitioners while showing the said land as agricultural land by creating pahanies sold away the land on 29.08.2005 vide registered documents dated 29.08.2005 and 1.9.2005. In the circumstances, they requested to provide protection to them as well as their lands and take action against the offenders. Basing on the said complaint, Crime No.174/05 under Sections 420, 447 and 427, IPC was registered and during the course of investigation, the complainant was examined and his statement was recorded. The investigation is at initial stage and no arrests have been made. It is further stated that the investigation so far disclosed that there was confusion about the location of survey number and extent of each survey number, which requires thorough examination. The complainant was already issued notice to produce relevant documents for purpose of investigation of the said crime. The truth or otherwise will come out only after completion of investigation. Since the investigation is still at the preliminary stage, the Writ Petition is misconceived and liable to be dismissed.

The complainant - President of Ekasheela Nagar lay-out plot holders, got himself impleaded as respondent No.4 and filed a separate counter-affidavit alleging that the General Power of Attorney holder does not have authority with regard to Sy.Nos.739 to 742, and therefore, purchasers of the said plots filed complaint No.123/00 before the Station House Officer, Ghatkesar Police Station. Subsequently a fresh GPA was executed in respect of Sy.Nos.739 to 742. However, petitioners suppressed the above facts and obtained pahani patrikas and other revenue records misleading that it is an agricultural land. As a matter of fact, petitioners themselves

developed the entire land and got the lay out approved by the Gram Panchayat and they themselves signed on the lay out, which shows their intention to cheat the public by playing mischief.

I have heard learned counsel for both parties and perused the material on record.

A copy of the plaint in O.S.No.64 of 2004, pending on the file of the Court of Principal District Judge, Ranga Reddy District, placed before this Court, shows that the said suit was filed by petitioners herein along with 11 others claiming to be joint owners of the suit schedule property and Ac.51.00 situated in Sy.Nos.739, 740, 741 and 742 of Korremula village. They sought declaration of their right, title over the suit property and also perpetual injunction restraining defendants 1 and 2 from interfering with their possession and enjoyment of the said property. It was pleaded that plaintiffs along with defendants 3 and 4 therein are the absolute joint owners and possessors of the suit schedule property, which is an agricultural land. It is alleged that they being the owners and possessors of land in Sy.Nos.743 to 747, sold the land to defendants 1 and 2 under different registered sale deeds and taking advantage of the said documents, defendants were making attempts to dispossess the plaintiffs and his family members from the suit schedule property. Earlier they filed O.S.No.1812 of 2002 on the file of the Court of Principal Junior Civil Judge, East and North, Ranga Reddy District, seeking a decree for permanent injunction and obtained temporary injunction in I.A.No.4421 of 2002. However, as the defendants questioned the right and title of the plaintiffs to the suit property, they were advised to file the present suit (O.S.No.64 of 2004) for declaration of their title.

A perusal of the plaint further shows that the cause of action for the suit arose on 12.12.2002; 18.12.2002 when the defendants therein made attempts to interfere with the possession and enjoyment of the plaintiffs and on 3.03.2004 when the earlier suit for injunction was withdrawn.

Thus, it is clear that the claim made by defendants 1 and 2 therein, in respect of the land situated in Sy.Nos.739, 740, 741 and 742 is the subject matter of O.S.No.64 of 2004 pending on the file of the Court of the Principal District Judge, Ranga Reddy District. However, the complaint dated 29.09.2005, on the basis of which Crime No.174 of 205 was registered, was lodged by 4th respondent herein, who claims to be the President of Ekasheela Nagar Lay-out plot holders, Korremula village. In the said complaint it was alleged that the petitioners along with their agreement holder,

K. Pratap Reddy and his GPA holder N. Prabhakar Reddy (defendants in O.S.No.64/04) and two others made the land situated in Sy. Nos.739 to 749 into 2100 plots and sold to Government employees of 22 Organizations under various registered sale deeds. In spite of the same, the petitioners created fresh pahanies misrepresenting that the said land is an agricultural land and also executed two registered sale deeds dated 29.08.2005 and 1.9.2005.

May be that the plaintiffs claim to have purchased the plots situated in Sy.Nos.739 to 749, a part of which is the subject matter of O.S.No.64 of 2004. However, the specific allegation in the complaint dated 29.09.2005 is that the petitioners along with their agreement holder and GPA holder having made the land into plots, sold to different persons misrepresenting that the said lands are agricultural lands and also executed registered sale deeds in respect of the very same land in favour of some third parties. Undoubtedly, the said allegation, if established, would attract the offences punishable under Section 420 and 447, IPC.

As can be seen from the counter-affidavit filed on behalf of respondents 1 to 3, investigation is still at the initial stage. The law is well settled that no investigation in any criminal proceeding can be quashed unless the allegations contained therein, even on their face value taken to be correct, make out no case. (vide **State of Haryana v. Bajan Lal)**. As noted above, the allegations made by 4th respondent in his complaint, though related to the schedule land of O.S.No.64 of 2004, have nothing to do with the issues involved in the said suit. Admittedly, investigation in Cr.No.174 of 205 is still pending. Whether the alleged offences under Section 420, 447 and 427, IPC are made out on the basis of the allegations made in the complaint dated 29.09.2005, is a matter to be enquired into by the Investigation Officer. It is for the respondents 1 to 3 to make necessary investigation as to the allegations in the complaint that petitioners have deliberately suppressed the real facts and obtained pahanies misrepresenting that the land in question is an agricultural land. As held by the Supreme Court in **Bhajan Lal's** case (1 supra), this Court will not be justified in embarking upon the enquiry as to the reliability and genuineness or otherwise of the allegations in the complaint at this stage. Hence, I am unable to hold that the action of the 1st respondent in registering Crime No.174/05 is arbitrary or illegal and consequently, the writ of certiorari as prayed for cannot be granted.

The Writ Petition is accordingly dismissed. No costs.

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(G. ROHINI, J.)

April 12, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.22909 OF 2005

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April 12, 2006.

Between:

Munukuntla Lachaiah Goud and another. .. Petitioners.

And

The Station House Officer, Ghatkesar Police

Station, R.R. District and three others. .. Respondents.